IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1803 OF 2005

The General Manager,
Government Milk Scheme Miraj ...Petitioner

Versus

Subodh Gopal Bhokare ...Respondent

.....

Mr. D.A. Patil, A.G.P. for the Petitioner

Mr. K.S. Bapat counsel for Respondent.

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CORAM: B. H. MARLAPALLE, J.

DATED: 27TH APRIL, 2005

P. C.:-

1. The impugned order has been passed by the controlling authority under Section 7(4) of the Payment of Gratuity Act, 1972. Sub Section 7 of Section 7 of the said Act states that any person aggrieved by an order under sub Section 4 may within sixty days from the date of the receipt of the order prefer an appeal to the appropriate Government or such other authority as may be specified by the appropriate Government in this behalf. Mr. Bapat, therefore, submitted that the Government of Maharashtra having designated the appellate authority, cannot be allowed to invoke writ remedy before this Court. When the statutory remedy of

appeal has been provided, it is well settled that the writ petition under Article 227 of the Constitution need not be entertained.

2. Hence, the petition is disposed of with liberty to the petitioner to file an appeal under Section 7(7) of the Payment of Gratuity Act, 1972.

3. It is clarified that for the purpose of calculating the period of limitation, the period of pendency of this petition i.e. from 16.2.2005 till today, shall be taken into consideration by the lower appellate authority.

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